

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY BUCHAREST

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E.O. 11652: NA

TAGS: EVIN, ETRD, CASC, RO

SUBJECT: OUTSTANDING PROPERTY CASES

1. THE DEPARTMENT HAS COMPLETED ITS REVIEW OF THE FILES FURNISHED BY THE EMBASSY WITH A VIEW TOWARD DETERMINING THE VALIDITY OF ANY UNSETTLED CLAIM BY A NATIONAL OF THE UNITED STATES AGAINST THE GOVERNMENT OF ROMANIA WHICH AROSE AFTER MARCH 30, 1960, THE DATE OF THE UNITED STATES/ROMANIAN CLAIMS AGREEMENT. AS A RESULT, THE DEPARTMENT HAS CONCLUDED THAT TWO OF THE CLAIMS ON THE LIST CAN NO LONGER BE CONSIDERED VALID, WHILE THE REMAINING CLAIMS CAN BE CATEGORIZED AS "MAY BE VALID." NO CONCLUSIONS CAN BE REACHED REGARDING THE LATTER CASES BECAUSE THE FILES DO NOT CONTAIN SUFFICIENT INFORMATION AND/OR EVIDENCE. SUGGEST EMBASSY REVIEW FILES AND SEND DEPARTMENT FILES ON ALL CLAIMS WHICH ARE PLAUSIBLE ON THEIR FACE AND MEET FOLLOWING LIMITED OFFICIAL USE

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CRITERIA: (1) NATIONALIZATION, OTHER TAKING OF PROPERTY,

REPUDIATION OF CONTRACT OR OTHER MEASURES HAVING EFFECT OF NATIONALIZATION OCCURRED ON OR AFTER MARCH 30, 1960; (2) PROPERTY WAS OWNED BY A NATIONAL OF THE UNITED STATES ON THE DATE OF TAKING AND CONTINUOUSLY THEREAFTER TO THE DATE OF PRESENTATION; (3) OWNER WAS NOT COMPENSATED FOR THE MARKET VALUE OF THE PROPERTY AT THE TIME AND PLACE OF TAKING AND IN CONVERTIBLE CURRENCY; AND (4) WOULD BE FUTILE TO EXHAUST AVAILABLE LOCAL REMEDIES.

2. NOTWITHSTANDING THE FOREGOING, WE ARE CONCERNED ABOUT THE IMPLICATIONS FOR US CITIZENS OF DECREE 223 OF DEC. 6, 1974. WE HAVE RECEIVED SEVERAL QUERIES REGARDING THIS DECREE, ALTHOUGH NO CASES IN WHICH PERSONS HAVE BEEN NOTIFIED OF STATE TAKING OF PROPERTY HAVE COME TO OUR ATTENTION. DEPARTMENT OFFICERS HAVE ASKED ROMANIAN EMBASSY PERSONNEL ABOUT PROCEDURES WHICH WILL BE PUT INTO EFFECT UNDER TERMS OF THIS DECREE, BUT HAVE NOT RECEIVED AUTHORITATIVE INFORMATION CONCERNING THE MATTER.

3. OUR CONCERN ON THIS ISSUE ARISES FROM TWO FACTORS ASIDE FROM SIMPLE JUSTICE FOR THE AMERICAN CITIZENS WHO MAY BE AFFECTED. SEIZURE OF AMERICAN PROPERTY WITHOUT PAYMENT OF PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION WOULD JEOPARDIZE OUR ABILITY TO ACCORD GSP TO ROMANIA. IN ADDITION, IF WE DETERMINE THAT THIS WOULD HAVE AN ADVERSE EFFECT ON THE ABILITY OF AMERICAN CITIZENS TO ENJOY INHERITANCE RIGHTS IN ROMANIA, WE WOULD BE COMPELLED TO INFORM US COURTS OF THIS SITUATION. THIS COULD AFFECT THE WILLINGNESS OF US COURTS TO AGREE TO TRANSFER OF US ESTATES TO ROMANIAN HEIRS OR LEGATEES.

4. EMBASSY IS REQUESTED TO APPROACH APPROPRIATE GOR AUTHORITIES TO SEEK CLARIFICATION OF THE EFFECTS WHICH DECREE 223 IS EXPECTED TO HAVE ON PROPERTY NOW BELONGING TO AMERICAN CITIZENS AND ON PROPERTY WHICH MAY BE INHERITED IN THE FUTURE. EMBASSY SHOULD POINT OUT THAT WE EXPECT THAT AMERICAN CITIZENS WILL BE TREATED FAIRLY UNDER THIS LEGISLATION. EMBASSY SHOULD NOTE SOURCE OF OUR CONCERN MENTIONED IN PARAGRAPH 3 ABOVE. IN VIEW OF ASSURANCES WHICH ROMANIANS HAVE GIVEN PREVIOUSLY THAT AMERICANS INHERITING ESTATES IN ROMANIA LIMITED OFFICIAL USE

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WOULD BE ALLOWED TO CONVERT TO HARD CURRENCY AND TRANSFER IT OUT OF ROMANIA, WE WOULD EXPECT THAT PROCEEDS OF SALE OF PROPERTY TO GOR WOULD BE AVAILABLE FOR TRANSFER. IN CASES WHERE DECREE 223 IS APPLIED TO PROPERTY BELONGING TO US CITIZENS, WE WOULD INSIST ON PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION BEING PAID. IF US CITIZENS WHO IN THE FUTURE INHERIT PROPERTY IN ROMANIA WILL NOT BE PERMITTED TO RETAIN TITLE UNDER DECREE 223, WE WOULD EXPECT THAT TRANSFER

OF FUNDS WOULD BE PERMITTED AT A REASONABLE EXCHANGE RATE
FOR THE FAIR MARKET VALUE OF THE PROPERTY. KISSINGER

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